



SAN FRANCISCO PLANNING DEPARTMENT

May 27, 2014

Ms. Angela Calvillo, Clerk
Honorable Supervisor Campos
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: Transmittal of Planning Department Case Number 2014.0509T
Amendments to the Mission Alcoholic Beverage Special Use District
Board File No. 14-0236
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Campos,

On May 22, 2014, the Planning Commission conducted a duly noticed public hearing at regularly scheduled meetings to consider the proposed Ordinance that would amend Planning Code Section 249.60, the Mission Alcoholic Beverage Special Use District, to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses introduced by Supervisor Campos. At the hearing, the Planning Commission recommended approval with modifications.

The proposed modifications include:

- Modifying subsection (b)(1)(C) so that the uses "bowling alleys" and "mini-golf courses" are replaced with "Other Entertainment uses that do not require a Place of Entertainment Permit."
- Clarifying that the uses listed under subsection (b)(1), which includes bona-fide eating establishments, are allowed new, original ABC licenses.

The proposed amendments to the Planning Code have been reviewed and found exempt from CEQA per Sections 15060(c) and 15378.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Planning Commission.

Please find attached documents relating to the actions of the Planning Commission. If you have any questions or require further information please do not hesitate to contact me.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", with a long horizontal line extending to the right.

Aaron Starr
Acting Manager of Legislative Affairs

cc:

Andrea Ruiz-Esquide, Deputy City Attorney
Laura Lane, Aide to Supervisor Campos
Alisa Miller, Office of the Clerk of the Board

Attachments

Planning Commission Resolution
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19158

HEARING DATE MAY 22, 2014

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Information:
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Project Name: Amendments to the Mission Alcoholic Beverage Special Use District
Case Number: 2014.0509T [Board File No. 140236]
Initiated by: Supervisor Campos / Introduced March 11, 2014
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD 1) AMEND PLANNING CODE SECTION 249.60 TO ALLOW SPECIFIED OTHER ENTERTAINMENT USES FUNCTIONALLY AND/OR PHYSICALLY INTEGRATED WITH A RESTAURANT USE TO OBTAIN A LIQUOR LICENSE AND 2) ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on March 11, 2014, Supervisors Campos introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 140236, which would amend Planning Code Section 249.60 of the Planning Code to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 22, 2014; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors *approve with modifications* the proposed ordinance and adopts the Draft Resolution to that effect.

The Commission recommended modifications would allow specified Other Entertainment uses to obtain liquor licenses and clarify that those uses currently allowed transfers from within and outside the Special Use District are allowed original ABC licenses.

Specifically, the Commission recommends

- Modification to subsection (b)(1)(C) as follows:
Other Entertainment uses, as defined in Section 790.38, but excluding those uses that require a Place of Entertainment permit, shall be permitted to serve alcoholic beverages along with any Restaurant use which is functionally and/or physically integrated with such Other Entertainment use.
- Modification to subsection (b)(1) as follows:
The following uses shall be eligible for liquor licenses transferred from within the SUD as well as licenses transferred from outside the SUD *or original licenses from the California Department of Alcoholic Beverage Control.*

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Mission Alcoholic Beverage Special Use District, Planning Code Section 249.60, applies to the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street.
2. The Mission Alcoholic Beverage Special Use District regulates alcohol related uses including liquor stores, eating and drinking uses and other retail uses.
3. The Mission Alcoholic Beverage Special Use District allows specified alcohol related uses which are not likely to generate negative impacts on the surrounding area to obtain liquor licenses from within and outside of the Special Use District.
4. The proposed Ordinance, with the proposed modifications, will allow specified Other Entertainment uses to transfer liquor licenses from within and outside of the Mission Alcoholic Beverage Special Use District. These specified Other Entertainment uses are ones that are not likely to generate negative impacts on the surrounding area and will be required to be functionally and/or physically integrated with a Restaurant use.
5. The proposed Ordinance, with the proposed modifications, will clarify that those uses that currently enjoy the right to transfer liquor licenses from within and outside of the Mission Alcoholic Beverage Special Use District also enjoy the right to obtain original licenses from the California Department of Alcoholic Beverage Control, in conformance with current practice.

6. The proposed Ordinance, with the proposed modifications, will minimize the need for continual amendment of the Special Use District.
7. The Commission believes that the proposed Ordinance, with the proposed modifications, will facilitate the addition of businesses that provide commercial recreational activities in a manner that is consistent with the neighborhood character, that is appropriate for thriving neighborhood serving commercial districts and that will not contribute to the deterioration of the surrounding neighborhood.
8. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance will help maintain a favorable social and cultural climate in San Francisco as it enhances the cultural and recreational activities available to the employees of existing and future firms.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

Policy 6.10

Promote neighborhood commercial revitalization, including community-based and other economic development efforts where feasible.

The proposed Ordinance will allow small business enterprises involved in commercial recreational activities to obtain liquor licenses in conjunction with a Restaurant use. This flexibility will allow such small businesses to maintain a diverse and unique retail experience within local neighborhoods and shopping areas and allows these small businesses the ability to respond and adapt to the changes in consumer demands.

9. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

- a. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance will have a positive impact on neighborhood-serving retail uses. The proposed Ordinance will allow neighborhood-serving retail uses to expand the universe of goods offered and enrich the customer experience. The proposed Ordinance will not impact opportunities for resident employment in, and ownership of, neighborhood-serving retail.

- b. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will not have a negative effect on housing as it concerns itself the operation of retail establishments. The neighborhood character will not be adversely affected by the proposed Ordinance as it seeks to enrich the diversity of available cultural and economic activities.

- c. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing as the proposed Ordinance is focused on retail uses.

- d. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- e. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development as the proposed Ordinance affects only retail uses. Future opportunities for resident employment or ownership in these sectors would not be impaired by the proposed Ordinance.

- f. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

- g. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an impact on the City's Landmarks and historic buildings.

- h. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an impact on the City's parks and open space and their access to sunlight and vistas as the proposed Ordinance deals with the operational restrictions on retail uses.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 22, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya and Wu

NOES:

ABSENT:

ADOPTED: May 22, 2014



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: MAY 22, 2014

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Initiated by: Supervisor Campos / Introduced March 11, 2014
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Reviewed by: Aaron Starr, Acting Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Approval with Modifications**

PLANNING CODE AMENDMENT

The proposed Ordinance would 1) amend the Mission Alcoholic Beverage Special Use District (Planning Code Section 249.60) to allow mini-golf courses functionally and/or physically integrated with a Restaurant use to obtain liquor licenses from within the Special Use District (hereinafter SUD) as well as from outside the Special Use District and 2) make environmental findings, Planning Code Section 302 findings and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The Way It Is Now:

The Mission Alcoholic Beverage SUD outlines the alcohol-related uses that may obtain liquor licenses from within the SUD and/or from outside the SUD. Uses permitted to transfer alcohol licenses from both inside and outside the district include restaurants operating as a bona-fide eating place, non-profit theaters, bowling alleys and single screen movie theaters. Uses allowed to transfer an alcohol license only from within the district include general grocery stores, specialty grocery stores, and bars. Mini-golf courses, irrespective of their integration with a restaurant use, are not a use that is allowed to obtain a liquor license within the SUD.

The Way It Would Be:

The proposed Ordinance would modify subsection (b)(1)(C) of the Mission Alcoholic Beverage SUD to allow mini-golf courses that are functionally and/or physically integrated with a Restaurant use to obtain liquor licenses from within the SUD as well as from outside the SUD.

ISSUES AND CONSIDERATIONS

- The Mission Alcoholic Beverage SUD applies to the area generally bounded by Guerrero Street, San Jose Avenue, Randall Street, Mission Street, Cesar Chavez Street, Potrero Avenue and Fourteenth Street, (See Exhibit B for a map of the Special Use District). The SUD was established because of a large number of establishments dispensing alcoholic beverages within the SUD for

both on-site and off-site consumption. This concentration of alcoholic beverage establishments has contributed to numerous peace, health, safety and general welfare problems in the area.

- **Continual modification of subsection (b)(1)(C).** Since 2011 the SUD has had two substantive modifications. The first modification (Board File 110767), effective in 2011, added bowling alleys and single screen movie theaters as uses that are allowed to serve alcoholic beverages. The second modification (Board File 130459), effective in 2013, was a major reorganization of the SUD that eased restrictions on the types of grocery stores that can sell alcoholic beverages, loosened controls on the temporary closure and expansion or relocation of existing alcohol serving establishments and added “good neighbor” operating policies among other modifications. The proposed Ordinance would constitute a third substantive change since 2011.
- **The addition of undefined uses to the Planning Code.** Currently four uses may transfer liquor licenses from within and outside the SUD. Of these uses, one (bowling alleys) is not defined in the Planning Code. The proposed Ordinance, in its current form, would add another undefined use (mini-golf courses). Undefined uses potentially create uncertainty regarding the extent of allowed activities given that no detailed and clear definition exists. This is in contrast to defined uses, where the scope of allowed activities is codified.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* to the proposed Ordinance. Department Staff recommends the following modifications:

1. Modify subsection (b)(1)(C) so that the uses “bowling alleys” and “mini-golf courses” are replaced with Other Entertainment uses that do not require a Place of Entertainment Permit. The proposed language is as follows:

Other Entertainment uses, as defined in Section 790.38, but excluding those uses that require a Place of Entertainment permit, shall be permitted to serve alcoholic beverages along with any Restaurant use which is functionally and/or physically integrated with such Other Entertainment use.

2. Clarify that the uses listed under subsection (b)(1), which includes bona-fide eating establishments, are allowed new, original ABC licenses. The proposed text is as follows:

The following uses shall be eligible for liquor licenses transferred from within the SUD as well as licenses transferred from outside the SUD *or original licenses from the California Department of Alcoholic Beverage Control.*

BASIS FOR RECOMMENDATION

The Department is in general support of the proposed Ordinance as the proposed Ordinance follows an established practice within the Planning Code of allowing the on-site consumption of alcohol in conjunction with a Restaurant use. The Department is also in general support of the proposed Ordinance because it will contribute to neighborhood vitality by spurring new economic activity, facilitating the emergence of businesses employing innovative operating models within underutilized buildings.

Recommendation 1

Rather than amending the Planning Code for each new type of entertainment use proposed within the SUD, the Department recommends amending the proposed Ordinance so that a variety of entertainment uses, not just mini-golf, would be permitted. The proposed modification would allow a variety of recreational activities, including but not limited to, bowling alleys, billiard parlors, skating rinks and mini-golf courses, to transfer liquor licenses from within and outside of the SUD when functionally and/or physically integrated with a Restaurant use. Further, the Department's recommendation utilizes an existing defined use in the Planning Code, maintaining consistency and clarity within the Code.

The Department's proposed modification excludes live performance activities, including, but not limited to, plays, song and dance acts, poetry recitation, the playing or use of any instrument capable of producing or used to produce musical or percussion sounds and fashion or style shows. Current practice is to generally exclude these uses from transferring liquor licenses when not conducted by a non-profit theater entity.

Recommendation 2

This proposed modification clarifies that those uses that currently enjoy the right to transfer liquor licenses from within and outside the SUD also may obtain new, original ABC licenses. This is in conformance with current Planning Department practice.

ENVIRONMENTAL REVIEW

The proposed amendments to the Planning Code have been reviewed and found exempt from the California Environmental Quality Act ("CEQA") per Sections 15060(c) and 15378.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any input from the public regarding the proposed Ordinance.

RECOMMENDATION: Approval with Modifications

Attachments:

- Draft Planning Commission Resolution
- Draft Board of Supervisors Ordinance [File No. 140236]
- Map of the Mission Alcoholic Beverage Special Use District